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In re Application of

KIM et al.

Application No.: 10/530,749

PCT No.: PCT/KR03/00576

Int. Filing Date: 24 March 2003

Priority Date: 10 September 2002

Attorney Docket No.: 0630-2291PUS1

For: HERMETIC COMPRESSOR

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This decision is in response to applicants' submission filed 08 April 2005.

BACKGROUND

On 24 March 2003, applicants filed international application PCT/KR03/00576 which designated the U.S. and claimed a priority date of 10 September 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 25 March 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 10 March 2005.

On 08 April 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, a declaration of inventors, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants submitted the basic national fee on 08 April 2005.

As to item (2), applicants submitted the petition fee on 08 April 2005.

As to item (3), the requisite statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Declaration of Inventors

The declaration of inventors filed 08 April 2005 is not in compliance with 37 CFR 1.497(a)-(b). First, there is a difference in names in the second named inventor between the published international application (O-Sup Kwon) and the declaration of inventors (O-Sub Kwon). It is not clear if there was a typographical or transliteration error in the first name of the inventor as indicated in the international application or declaration (an acceptable explanation would be required), or if the inventor has changed his name (a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) would be required), or if a change of inventorship is being made from the inventorship of the application as indicated in the international application (a petition under 37 CFR 1.497(d) would be required). Second, it is not clear what is being executed. The declaration indicates that the specification filed 10 September 2002 as International Application Number PCT/KR03/00576 is being executed. However, the filing date of that International Application Number is 24 March 2003 rather than 10 September 2002.

CONCLUSION

The petition under 37 CFR 1.137(b) is GRANTED for the reasons set forth above.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. Regarding the name of Mr. Kwon, a proper response would be a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the middle name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application. Extensions of time under 37 CFR 1.136(a) are available.

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

Please direct further correspondence with respect to this matter to Mail Stop PCT,

Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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